

IN THE SUPREME COURT OF THE STATE OF NEVADA

KELVIN L. JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56485

FILED

DEC 13 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT
THE JUDGMENT OF CONVICTION

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his petition, filed on March 16, 2009, appellant claimed that his guilty plea was invalid because he was not informed of the elements of burglary while in possession of a firearm, to which he pleaded guilty. Appellant's claim was belied by the record. The amended information, attached to the guilty plea agreement that appellant signed, set forth the elements of the charge, and appellant answered affirmatively when asked by the district court whether he understood the charges. Accordingly, the record as a whole indicates that appellant was informed of the nature of the charge. See State v. Gomes, 112 Nev. 1473, 1481, 930 P.2d 701, 707

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

(1996). We therefore conclude that the district court did not err in denying appellant's petition on this ground.

Appellant also claimed that the district court abused its discretion in allowing the State to amend the information to add a new offense in violation of NRS 173.095. Appellant's claim was outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based on a guilty plea. NRS 34.810(1)(a). We therefore conclude that the district court did not err in denying appellant's petition.

We note that while appellant pleaded guilty to burglary while in possession of a firearm and received a sentence in accordance with that crime, the judgment of conviction states only that appellant was convicted of burglary, omitting any reference to "while in possession of a firearm." The judgment of conviction also contains a typographical error in the sentence itself, indicating a minimum term of 180 months and a maximum term of 60 months. Therefore, we remand this matter to the district court for correction of the judgment of conviction to reflect the correct crime of which appellant was convicted as well as the correct minimum and maximum terms of imprisonment for that crime. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND for the limited purpose of correcting the judgment of conviction.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Michelle Leavitt, District Judge
Kelvin L. Johnson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk